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DEPARTMENT FOR EUR/NB, EUR/ERA, EB/CBA, EB/IFD/OIA FOR
MTRACTION AND NHATCHER

E.O. 12958: N/A

TAGS: [ECON](#) [PREL](#) [ETRD](#) [EN](#)
SUBJECT: ESTONIA: RAILWAY DEADLOCK UNNERVING GOE

REF A) TALLINN 00437 B) STATE 72713 and previous

¶11. (SBU) Summary. On June 22, Baltic Rail Service (BRS) sent an official response to the Estonian government's letter of April 27 alleging that BRS had violated the terms of the Estonian Railways privatization agreement and threatening to revoke that agreement. In its letter, BRS categorically rejected all the government's allegations. On June 30 the Ambassador met with Minister of Economy Edgar Savisaar to discuss BRS' reply. The meeting was at the behest of Savisaar, and unlike the last meeting (Ref A), his mood was far more conciliatory. At our Fourth of July event a day earlier, both Prime Minister Andrus Ansip and Minister of Foreign Affairs Urmas Paet told the Ambassador they would be pressing Savisaar to return to the negotiating table. However, as mistrust remains high on both sides, it is uncertain if either party will initiate a resumption of negotiations. End Summary.

BRS RESPONDS

¶12. (SBU) In its June 22 letter, BRS forcefully rejected all of the GOE's four principal accusations of alleged violations as grounds for the termination of the Privatization Agreement. First, BRS denied the Shareholders Agreement (SA) gave the GOE any right to transfer the value of the rails acquired under the 1998 Foreign Aid Agreement. Second, BRS argued that it fully met and exceeded its investment obligation under the SA (approximately \$207 million). Third, BRS denied the GOE's assertion that it never gave its prior consent to BRS to pledge six percent of the shares for securing the performance guarantee. BRS said that although prior consent was given BRS has now terminated the pledge of shares. Finally, BRS continued to maintain that the government's golden share is invalid under EU law and violates BRS' right for redress through the courts. BRS ended its letter by completely rejecting the GOE's reasons for wanting to terminate the Privatization Agreement and speculating that the GOE's real motivation may be nothing less than the hindrance of the free movement of capital.

A GESTURE FROM SAVISAAR?

¶13. (SBU) On June 30, the Ambassador met with Minister of Economy Edgar Savisaar, at his request, to discuss the railway issue. Unlike previous meetings with Savisaar, where he confidently defended the GOE's

actions and attempted to draw us into the details of the negotiations, Savisaar took a more conciliatory approach this time. While briefly outlining BRS' four chief responses to the GOE's allegations and defending the GOE's actions, Savisaar spent most of his time asking us for advice on how he should respond to BRS' letter. We reiterated Ref B points, and encouraged both the GOE and BRS to return to the negotiation table in good faith rather than continue their acrimonious dispute publicly through the press.

¶4. (SBU) Savisaar seemed genuinely concerned over how to affect a rapprochement with BRS. In contrast to the confidence displayed in his past public comments about the GOE's actions, Savisaar made a surprising admission, saying that "Our lawyers are confident that if this goes to court we will win, but I'm sure BRS' lawyers are telling them the same thing...and in the end, who knows who'll win." Savisaar was clearly unnerved by the forcefulness of BRS' response and resistance. He repeatedly complained of the lack of "give-and-take" in BRS' letter that would allow the sides to work towards a compromise. However, Savisaar stressed that his door was always open to negotiate further.

DIVISIONS WITHIN THE GOE?

¶5. (SBU) At our Fourth of July event on June 29, PM Ansip and FM Paet approached the Ambassador to discuss her upcoming meeting with Savisaar. They assured her that they wanted a speedy resolution and would be pressing Savisaar to negotiate. Whereas at our previous meeting with Ansip on the railway issue he stood shoulder-to-shoulder with Savisaar, it now seems cracks are beginning to emerge within the GOE on this issue. It was clear to us that neither Ansip nor Paet were being kept in the loop by Savisaar.

BRS SKEPTICAL AND PREPARES FOR THE LONG FIGHT

¶6. (SBU) In our discussions with BRS, both CEO of Estonian Railways Chris Aadnesen and Chairman of the Supervisory Board Edward Burkhardt expressed their suspicions over Savisaar's conciliatory gesture. Burkhardt said that he would not be surprised if Savisaar was laying some sort of trap. While Burkhardt said BRS was always willing to negotiate, his legal team was already preparing its case for arbitration.

¶7. (SBU) BRS is confident that its efforts through the Estonia media and lobbying in Brussels to apply pressure on the GOE are working. Burkhardt said that on June 29 at the funeral of former Estonian Ambassador to Finland Priit Kolbre, Ansip spoke with BRS Deputy Managing Director Riivo Sinijarv for over twenty minutes trying to persuade BRS to show some flexibility. Unfortunately, Burkhardt believes that "gap between what the GOE can realistically offer politically and what BRS would accept has grown too large." Burkhardt was still confident that BRS would "win hands-down in court."

¶8. (SBU) Comment. Having threatened to revoke the railway's privatization agreement, the GOE now seems to be uncertain about whether or not to act on that threat. Savisaar's conciliatory tone seems to indicate that the window of opportunity for negotiations is still open. However, the level of mistrust between the parties has made both BRS and the GOE leery of taking the initiative to restart negotiations. End Comment.